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February 27, 2015

VIA ECF

Honorable Judge Cathy Seibel
United States District Court
for the Southern District of New York
300 Quarropas Street
White Plains, NY 10601-4150

Re: *United States v. Selim Zherka*, 14 Cr. 545 (CS)

Dear Judge Seibel,

At the last Court conference in this case on February 6 I advised the Court that my client was contemplating requesting an adjournment of the trial date of June 1. The Court requested that I advise the Court by the end of this month whether we would seek an adjournment. I have now had the opportunity to discuss this matter with my client and we respectfully request an adjournment of the trial date to September 1.

As the Court is aware, there are 35 counts in the indictment. They involve multiple transactions including transactions with three different financial institutions spanning a five year time period as well as multiple year tax charges and obstruction of justice charges. We estimate that the volume of documents turned over by the governments is approximately 400,000 to 500,000 pages. Many of the documents involve complex financial transactions. Additionally, the government has turned over wiretap recordings of approximately 18,000 intercepted calls on defendant's telephone, many of which are relevant to the charges in the indictment. Although the government has conceded for the purposes of this case that the

wiretap was illegal, nonetheless defense preparation has required listening to them which is an extremely time consuming process.

Motion practice has also been extremely time consuming. A considerable amount of time has been expended on bail litigation both in this Court and the Second Circuit. Work on pre-trial motions has been and will continue to be extensive. The purpose of this letter is not to persuade the Court of the merits of the motions. But, it is important to note that the issues raised in these motions are not run of the mill and have required extensive time researching. I refer to the illegal wiretaps and the government seizure of material from Mr. Zherka's attorney and the government use of that attorney as a cooperating witness.

The time required for preparation has been intensified by the fact that my client has been incarcerated since the inception of the case in late September. It took several months for the MCC to set up computer capability for Mr. Zherka to begin reviewing the documents. My ability to work with him, a critical part of the trial preparation process, has been hampered by his incarceration and by the need to enable him to review documents.

Further, although the government has worked to make discovery available to me and to make it computer accessible to my client in jail, there have been the inevitable delays in this process. Some of the delays have involved notifying the government of documents that we believed the government inadvertently did not turn over. It took considerable time to identify the documents that we believed were missing. The government had not prepared a production log index so that has made document examination even more time consuming.

In all, the June 1 trial date request made by defendant has proved to be ambitious. It was motivated by the fact that Mr. Zherka was incarcerated. Had he not been incarcerated we would have requested a trial date in the fall – surely not an unreasonable request in a case of this nature. As matters have developed, for the reasons stated above, we cannot be prepared for trial on June 1. Accordingly, we request an adjournment of the trial date to September 1.

I have advised Messrs. Jacobson and Carbone of this request. My understanding is that they are not opposed to an adjournment but are opposed to the date I request and they will be writing to the Court after the receipt of this letter. I respectfully request a Court conference as soon as convenient to the Court to discuss my request for an adjournment.

Very truly yours,



Frederick P. Hafetz

CC: AUSA, Perry Carbone
AUSA, Elliott B. Jacobson